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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/572,522

12/18/2007

Andreas Bergmann

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4727

23405

7590

03/08/2011

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EXAMINER

KAM, CHIH MIN

ART UNIT

PAPER NUMBER

1656

MAIL DATE

DELIVERY MODE

03/08/2011

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/572,522	BERGMANN, ANDREAS	
	<b>Examiner</b>	<b>Art Unit</b>	
	CHIH-MIN KAM	1656	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-3,6-9 and 11-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,6-9 and 11-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                      |                                                                   |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____                                                          | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### **Status of the Claims**

1. Claims 1-3, 6-9 and 11-14 are pending.

Applicants' amendment filed January 18, 2011 is acknowledged. Applicant's response has been fully considered. Claims 1-3 and 6-9 have been amended, claims 4-5 have been cancelled, and new claims 11-14 have been added. Therefore, claims 1-3, 6-9 and 11-14 are examined.

The status of claim 7 is not correct because claim 7 has been amended to correct the word "vaue".

### **Withdrawn Informalities**

2. The previous objection to the specification regarding the amino acid sequence of TPDVS is withdrawn in view of applicants' amendment to the specification, and applicants' response at page 8 in the amendment filed January 18, 2011.

### **Withdrawn Claim Objections**

3. The previous objection to claims 2, 3, 5, 6 and 8 is withdrawn in view of applicants' amendment to the claim, applicants' cancellation of the claims, and applicants' response at page 8 in the amendment filed January 18, 2011.

### **Withdrawn Claim Rejections - 35 USC § 112**

4. The previous rejection of claims 1-9 under 35 U.S.C. 112, first paragraph, scope of enablement, is withdrawn in view of applicants' amendment to the claim, applicants' cancellation of the claims, and applicants' response at pages 8-9 in the amendment filed January 18, 2011.

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5. The previous rejection of claims 1-9 under 35 U.S.C. 112, second paragraph, regarding the term “derivatives thereof”, “in a serum of plasma sample”, “the cause of a cancer disease” or “vaue” is withdrawn in view of applicants’ amendment to the claim, applicants’ cancellation of the claims, and applicants’ response at pages 9-10 in the amendment filed January 18, 2011.

**Withdrawn Claim Rejections - 35 USC § 102**

6. The previous rejection of claims 1 and 4, under 35 U.S.C. 102(b) as being anticipated by Barlage et al. (J. Lipid Research Vol. 42, 281-290 (February 2001)), is withdrawn in view of applicants’ amendment of the claims, applicants’ cancellation of the claims, and applicants’ response at page 10 in the amendment filed January 18, 2011.

7. The previous rejection of claims 1, 3 and 4, under 35 U.S.C. 102(e) as being anticipated by Rensen et al. (US 2006/0111283 A1), is withdrawn in view of applicants’ amendment of the claims, applicants’ cancellation of the claims, and applicants’ response at page 10 in the amendment filed January 18, 2011.

**New Informalities**

The disclosure is objected to because of the following informalities:

8. The specification recites the sentences “This object is achieved by a method as claimed in claim 1” at page 6, line 27, and “These aspects of the invention form the subject matter of claim 10” at page 7, lines 24-25. However, these cited claims would not be same as the original claims during the prosecution. Appropriate correction is required.

9. While the specification recites the band is eluted at 17.05 min at page 10, third paragraph and Fig. 1, the specification also indicates the band eluting at 17.5 min at page 12, lines 1-2.

Appropriate clarification is required.

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### **Claim Rejections - 35 USC § 112**

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 1-3, 6-9 and 11-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

11. Claims 1-3 and 6-9 are indefinite because of the use of the term “differs significantly”, “significantly reduced”, “significantly changed”, “high probability” or “deviate significantly”. The term cited renders the claim indefinite, it is not clear what is the mete and bounds for the cited term since they are all relative terms. Claims 2-3 and 6-9 are included in this rejection for being dependent on a rejected claim and not correcting the deficiency of the claim from which they depend.

Applicants did not respond to the rejection. Thus, the rejection is maintained.

12. Claims 11-14 are indefinite as to what method is used to determine the level of apolipoprotein C-I in the serum or plasma sample, and whether the level of apolipoprotein C-I is the total apolipoprotein C-I present in the sample. Claims 12-14 are included in this rejection for being dependent on a rejected claim and not correcting the deficiency of the claim from which they depend.

### Conclusion

13. No claims are allowed.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chih-Min Kam whose telephone number is (571) 272-0948. The examiner can normally be reached on 8.00-4:30, Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Manjunath Rao can be reached at 571-272-0939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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/Chih-Min Kam/

Primary Examiner, Art Unit 1656

CMK

March 3, 2011